

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|   |   |                 |
|---|---|-----------------|
| REQUEST FOR CONFIDENTIAL TREATMENT OF   | ) |                 |
| INFORMATION FILED WITH METROPOLITAN     | ) | CASE NO. 94-093 |
| FIBER SYSTEMS OF KENTUCKY, INC.'S       | ) |                 |
| APPLICATION FOR A CERTIFICATE OF PUBLIC | ) |                 |
| CONVENIENCE AND NECESSITY TO PROVIDE    | ) |                 |
| INTRA-STATE TELECOMMUNICATIONS SERVICES | ) |                 |

O R D E R

This matter arising upon petition of Metropolitan Fiber Systems of Kentucky, Inc. ("Metropolitan Fiber"), filed April 21, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its tentative development plan on the grounds that disclosure of the information is likely to cause Metropolitan Fiber competitive injury and it appearing to this Commission as follows:

Metropolitan Fiber has applied for a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services within this state. In support of its application, Metropolitan Fiber has prepared a tentative plan for development of a Louisville network in the first five years of operation. Metropolitan Fiber seeks to protect this plan as confidential on the grounds that disclosure is likely to cause it competitive injury.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS

61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

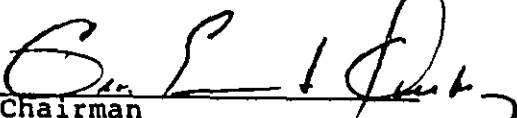
The proposed network potentially will compete with services provided by South Central Bell, Kentucky Fiberlink, and IntelCom Group, Inc. The tentative plan sought to be protected identifies potential customers of Metropolitan Fiber which its competitors could use in marketing their own services. Therefore, disclosure of the information is likely to cause Metropolitan Fiber competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the tentative plan of operation, which Metropolitan Fiber has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 6th day of May, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director